



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/159692

PRELIMINARY RECITALS

Pursuant to a petition filed August 05, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on September 25, 2014, at Racine, Wisconsin.

The issue for determination is whether the agency was correct in denying Petitioner's request for extension of her BadgerCare (BC) Plus benefits when her income went above 100% FPL and Petitioner failed to provide verification of her employment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Rhonda Kramer

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner received BadgerCare (BC) Plus for herself and her child prior to July 3, 2014.
3. On July 3, 2014 Petitioner reported that she started a new job.

4. On July 7, 2014 the agency sent Petitioner a notice of proof needed with an employer verification of earnings form. The form stated that proof was due by July 16, 2014. The form also advised that “if you do not provide the proof by the due date, benefits will be denied, decreased, or ended.”
5. Petitioner’s employer completed the verification of earnings form on July 16, 2014. Petitioner did not provide that verification to the agency in July 2014.
6. On July 17, 2014 the agency sent Petitioner a notice stating that her BC Plus benefits were discontinued for failing to provide the requested proof.
7. On August 8, 2014 the Division of Hearings and Appeals received Petitioner’s request for fair hearing.

DISCUSSION

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program’s nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in October 2014). The program continues to include households that have children in the home. *Id.* Petitioner meets the nonfinancial eligibility tests for the program.

Petitioner must also pass an income test. An eligible adult applicant including a parent or caretaker cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1.1. The 100% FPL amount for a household of 2 is \$1310.83 in monthly gross income. *Id.*, § 50.1. The income limit for a child is 300% FPL. 300% FPL for a household of 2 is \$3932.50. Thus there are situations where a parent is ineligible, but the child or children in the home are eligible.

If a person is open and receiving BC Plus, and the household income increases above 100% FPL, then the household is eligible for an extension. *BCPEH*, § 18.1.1. An extension maintains BC eligibility for the household members for up to one year. *BCPEH*, § 18.2.2. In order to qualify for an extension the household must verify the increase in income. *BCPEH*, § 18.2.2. Failure to verify income makes the non-disabled, non-tribal, non-pregnant parents/caretakers ineligible. *BCPEH*, § 18.5.1. The children remain eligible for the extension and BC Plus. *Id.* Parents who verify income and are otherwise eligible for an extension, must pay a premium during the extension period. *BCPEH*, § 19.1.

In this case Petitioner was open and receiving BC Plus in July 2014. On July 3, 2014 Petitioner reported that she started a new job. On July 7, 2014 the agency sent a notice of proof needed to Petitioner. The notice included an employer verification of earnings form, and stated that proof of Petitioner’s employment and income was due by July 16, 2014. The notice specifically stated that “if you do not provide the proof by the due date, benefits will be denied, decreased, or ended.” Petitioner failed to provide verification of her employment, and on July 17, 2014 the agency sent Petitioner a notice stating that as of August 1, 2014 Petitioner will no longer have BC Plus.

At the hearing Petitioner stated that she sent her Human Resources Department an e-mail on July 9, 2014. She testified that essentially it was her employer’s fault that she failed to return the documentation in a timely manner. Petitioner provided a copy of the e-mails. The e-mails do not corroborate Petitioner’s testimony. There is an e-mail from the HR Department to the Petitioner on July 16, 2014 stating, “I have the document filled out. Were you going to pick it up? There is no fax number in which to send it.” The verification was due on that date. Petitioner failed to obtain the fax number and either fax, send, or drop off the verification on that date.

Petitioner did not provide the verification to the agency until September 2014. Petitioner testified that she faxed the verification prior to that date, and the agency never received it. Petitioner also stated that she did not receive the notices that the agency sent until late, and sometimes she never received those notices. I do not find this testimony credible for a number of reasons. The mailing address was correct. Petitioner received the July 7 notice as evidenced by the fact that she alerted her employer that she needed verification on July 9, two days after the notice was sent. Petitioner did not have verification of the fax she purportedly sent. Petitioner did not call the agency to confirm that they received the fax. Petitioner's testimony appears to be self-serving. In addition, the only other issues in this case regarding correspondence between Petitioner and the agency are when Petitioner is getting denied benefits. There are no issues when she is receiving benefits.

Petitioner's child continues to receive BC Plus. Petitioner's monthly gross income is \$2,103.84. This is above 100% FPL, but below 300% FPL. Petitioner's child is eligible through both the extension and the general eligibility requirements for the program. Petitioner maybe eligible for insurance through the marketplace. The denial of BC Plus benefits may trigger an open enrollment period for the marketplace. If Petitioner's income is below 100%, then Petitioner may reapply for BC Plus benefits.

CONCLUSIONS OF LAW

The agency correctly denied Petitioner's extension of BC Plus benefits when her income went above 100% FPL and she failed to provide verification in a timely manner.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

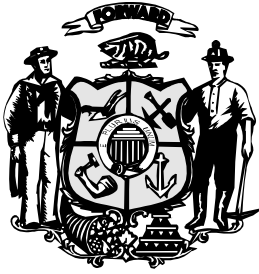
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson

Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 3rd day of October, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 3, 2014.

Racine County Department of Human Services
Division of Health Care Access and Accountability